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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,322	12/04/2003	Kenzo Matsumoto	JCLA12520	1383

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J.C. Patents
Suite 250
4 Venture
Irvine, CA 92618

EXAMINER

LEUNG, RICHARD L

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action	Application No. 10/729,322	Applicant(s) MATSUMOTO ET AL.	
	Examiner Richard L. Leung	Art Unit 3744	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): to claims 1 and 2 under 35 U.S.C. 112, 2nd paragraph.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____


Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments with regard to the rejection of claims 1 and 2 under 35 U.S.C. 103(a) are not persuasive. Applicants assert that since the reference of US 5738063 (Richard et al.) does not disclose the use of a refrigerant consisting essentially of a combustible hydrocarbon refrigerant and a carbon dioxide refrigerant, the rejections are overcome. Examiner respectfully points out that the reference of JP 06-017040 (Kobayashi) rather than Richard et al. is relied upon for demonstrating that a refrigerant consisting of a hydrocarbon refrigerant and a carbon dioxide refrigerant already exists in the prior art, and that Richard et al. is merely used to teach the particulars of the refrigeration circuit. As stated in the Final Rejection, it can be understood from Figure 1 that the hydrocarbon and carbon dioxide refrigerant of Kobayashi is used in a vapor compression cycle, and Richard et al. explicitly teaches that vapor compression cycles, which are already notoriously well known and conventional in the art, comprise a compressor, gas cooler, expansion mechanism and evaporator in the manner required by the claims (column 1, lines 19-40). Therefore, motivation to combine the vapor compression system taught by Richard et al. with the refrigerant disclosed by Kobayashi is derived simply from the fact that the refrigerant of Kobayashi is expressly used in vapor compression systems. Applicants' statement that Richard et al. discuss a different refrigerant for use in the system is not considered sufficient in demonstrating nonobviousness over the combination of the recited references.


CHERYL J. TYLER
PRIMARY EXAMINER